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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/584,375	05/31/2000	Bruce Henry Garvie	GAR-001	1354

7590 05/21/2002

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EXAMINER

STASHICK, ANTHONY D

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 05/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/584,375	GARVIE, BRUCE HENRY	
	<b>Examiner</b>	<b>Art Unit</b>	
	Anthony D Stashick	3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 15 March 2002.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-5 and 11-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 and 11-15 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 31 May 2000 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION*****Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 15, 2002 has been entered.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 5 and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deacon et al. 6,327,797 in view of MacNeill 5,996,260. Deacon et al. '797 discloses all the limitations substantially as claimed including the following: a cleat made entirely of plastic (see Abstract); an insert made of synthetic plastic material (see Abstract and col. 2, lines 26-29); insert having a stem portion (that with threads) to fasten to undersole; plastic traction member (head on threaded portion) secured to insert during molding (see Abstract, molded together) encasing the insert but not the engagement means (the threaded area). Deacon et al. '797 does not teach or disclose the plastic members having different hardnesses or colors. MacNeill '260 teaches that the different plastics used in a spike insert and traction member can made of different colors (col. 3, line 58-col. 4, line11) to aid in determining the wear and tear on the cleat. MacNeill '260 also teaches that the material of the traction member and the

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base can be made of different hardnesses, the material of the traction member being softer (i.e. less hard) than the material of the base (see col. 3, lines 11-42), the softer outer layer aiding in improving traction and the stiffness and hardness of the base layer aiding in giving support to the projections.

Therefore, it would have been obvious, to one of ordinary skill in the art at the time the invention was made, to make the plastic members of Deacon et al. '797 out of different hardnesses and colors, as taught by MacNeill '260, to aid giving support to the projection and help in dispersing impacts and to aid in visually determining the wear and tear on the cleat.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 2 above in view of Erich et al. 5,036,606. The references as applied to claim 2 above disclose all the limitations of the claim except for the traction member having a raised spike member. Erich et al. '606 teaches that a spike member, made of multiple parts, can contain a raised traction member 11 to aid in gaining traction with the ground. Therefore, it would have been obvious to place a raised traction member, such as that shown in Erich et al. '606, on the base member of the references as modified and applied to claim 2 above to aid in gaining traction with the ground and allow for longer wear of the spike unit.

5. Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Deacon et al. 6,327,797 in view of Erich et al. 5,036,606. Deacon et al. '797 discloses all the limitations substantially as claimed including the following: a cleat made entirely of plastic (see Abstract); an insert made of synthetic plastic material (see Abstract and col. 2, lines 26-29); insert having a stem portion (that with threads) to fasten to undersole; plastic traction member (head on threaded portion) secured to insert during molding (see Abstract, molded together) encasing the insert but not the engagement means (the threaded area). Deacon et al. '797 does not teach a flange extending orthogonally from the stem for encasement by the traction member with a raised spike extending from the second end of the spike. Erich et al. '606 teaches that a spike member can have a flange 30 extending orthogonally from the

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stem and encased by a traction member with a raised spike on the end to give support to the traction member and to aid in giving traction to the user's shoe. Therefore, it would have been obvious to place a flange, such as that taught by Erich et al. '606, on the stem of Deacon et al. '797, with a raised spike member on the end to aid in giving support and traction to the spike and shoe.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 10 above in view of MacNeill 5,996,260. The references as applied to claim 10 above disclose all the limitations of the claim except for the plastic materials being different hardnesses. MacNeill '260 teaches that the material of the traction member and the base can be made of different hardnesses, the material of the traction member being softer (i.e. less hard) than the material of the base (see col. 3, lines 11-42), the softer outer layer aiding in improving traction and the stiffness and hardness of the base layer aiding in giving support to the projections. Therefore, it would have been obvious, to one of ordinary skill in the art at the time the invention was made, to make the plastic members of the references as applied to claim 10 above out of different hardnesses, as taught by MacNeill '260, to aid giving support to the projection and help in dispersing impacts of the cleat with the ground.

#### *Response to Arguments*

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

*Conclusion*

8. The prior art made of record and relied upon is considered pertinent to applicant's disclosure and is cited on form 892 enclosed herewith.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, email CustomerService3700@uspto.gov.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D Stashick whose telephone number is 703-308-3876. The examiner can normally be reached on Tuesday through Friday from 8:30 am until 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Fee Increase Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408

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Informal Fax for 3728 (703) 308-7769

If the information desired is not provided above, or has been changed, please do not call the examiner (this is the latest information provided to him) but the general information help line below.

Information Help line 1-800-786-9199  
Internet PTO-Home Page <http://www.uspto.gov/>



Anthony D Stashick  
Primary Examiner  
Art Unit 3728

ADS  
May 17, 2002